

## Exhibit A

# Proposed Supplement to Second Amended Complaint

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16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA  
18 JACOB MANDEL, CHARLES VOLK, LIAM  
KERN, SHACHAR BEN-DAVID, MICHAELA  
GERSHON, MASHA MERKULOVA, and  
20 STEPHANIE ROSEKIND,

21 Plaintiffs,

22 v.

23 BOARD OF TRUSTEES of the CALIFORNIA  
STATE UNIVERSITY, SAN FRANCISCO STATE  
UNIVERSITY, RABAB ABDULHADI, in her  
24 individual capacity, and LESLIE WONG, MARY  
ANN BEGLEY, LUOLUO HONG, LAWRENCE  
BIRELLO, REGINALD PARSON, OSVALDO  
25 DEL VALLE, KENNETH MONTEIRO, BRIAN  
STUART, and MARK JARAMILLA, in their  
27 official and individual capacities,

28 Defendants.

Case No. 3:17-CV-03511-WHO

SUPPLEMENT TO PLAINTIFFS'  
SECOND AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(d), Plaintiffs Jacob Mandel, Charles Volk, Liam Kern, Shachar Ben-David, Michaela Gershon, Masha Merkulova, and Stephanie Rosekind (“Plaintiffs”) hereby file this Supplement to their Second Amended Complaint (ECF 145),<sup>1</sup> which is the operative pleading in this action. This Supplement provides additional relevant factual allegations from the period after Plaintiffs filed the Second Amended Complaint (the “SAC”) on March 29, 2018. The additional factual allegations included in this Supplement pertain to:

- The Seventh Cause of Action under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* (“Title VI”), asserted by the Title VI Jewish Plaintiffs—Plaintiffs Mandel, Volk, Kern, Ben-David, and Gershon—against Defendants Board of Trustees of California State University (“CSU”) and San Francisco State University (“SFSU”); and
- The Eighth Cause of Action under Title VI, asserted by the Title VI Israeli Plaintiffs—Plaintiffs Mandel, Ben-David, and Gershon—against Defendants CSU and SFSU.

### **SUPPLEMENTAL ALLEGATIONS**

1. During the Spring 2018 semester, Plaintiff Michaela Gershon, then an SFSU sophomore, enrolled in a course called “South Asians in America” (AAS 540) under the curriculum of the College of Ethnic Studies (“COES”), taught by Professor Simmy Makhijani (“Makhijani”).

2. For the first half of the semester, Ms. Gershon attended class without incident; she participated to the same extent as other students in the class, and completed her assignments with diligence.

3. On April 7, 2018, as a class assignment, Ms. Gershon was required to submit a creative piece describing her family history and struggles to echo the theme of a book, *Migritude* by Shailja Patel, which blamed Israel exclusively for the hardship of the Palestinians. Ms. Gershon did not understand why this book was assigned in a class about South Asians, but she nevertheless wrote about the struggles of both the Palestinian and Israeli people, and described her own struggle being

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<sup>1</sup> Plaintiffs filed the First Amended Complaint on March 29, 2018 as ECF 125. On June 6, 2018, pursuant to Stipulation and Order (ECF 144), a corrected Second Amended Complaint was filed *nunc pro tunc* as ECF 145.

1 demonized and targeted as a group, specifically at SFSU, where Israelis are held accountable for  
 2 alleged actions of the Israeli government--which to her, felt like racism, anti-Semitism and  
 3 marginalization. While Ms. Gershon's assignment was focused on Israel, Ms. Gershon has  
 4 personally witnessed and experienced a pattern of targeting and discrimination at SFSU based on  
 5 both Israeli national origin and Jewish identity regardless of national origin.

6. On and after April 26, 2018, after reading Ms. Gershon's submission and learning  
 7 about Ms. Gershon's religious, ethnic and national identities, Makhijani began calling her out in  
 8 class, pressuring Ms. Gershon to join the campus group "Jews Against Zionism," insisting that Ms.  
 9 Gershon come to her office hours for a conversation about Zionism, telling the whole class that  
 10 Israel is a "colonialist," "imperialist" and "oppressive" state, and targeting Ms. Gershon, in front of  
 11 other students, both in class and outside of it. This targeting was noticeable to other students, who  
 12 made several comments to Ms. Gershon about how she was being "called out" and clearly treated  
 13 differently. One student in her class discussion group that day, Addison Von Patten, told Ms.  
 14 Gerson: "That was weird—just because you're Jewish, she expects you to join that club? She doesn't  
 15 know you or your religion!"

5. At one point, Makhijani requested that Ms. Gershon take a walk with her, which Ms.  
 16 Gershon did not think she could decline considering Makhijani's position of authority. On the walk,  
 17 Makhijani told Ms. Gershon that her perception, described in her assignment, as being targeted on  
 18 campus as a Jew and an Israeli, was "not true," that "people at SFSU are not demonizing Israelis, it's  
 19 about criticizing Zionism" and that "it is understandable that students on campus who speak out  
 20 against Zionism are coming from a place of oppression and less power and privilege, and are filled  
 21 with rage and don't have an outlet," so we must understand "why they would feel this way and say  
 22 or do what they do." Ms. Gershon, taken aback by this apparent justification for the harassment and  
 23 discrimination she has endured at SFSU, told Makhijani that there was a "whole spectrum of views  
 24 on Zionism" and that to Ms. Gershon, Zionism simply meant the national liberation movement for  
 25 Jews to have their own land free from anti-Semitism. Makhijani responded that Ms. Gershon only  
 26 held this personal conviction because she is the "victim of a false narrative being propagated by rich  
 27

1 and powerful Zionists who control the media” and that Ms. Gershon was ignorant of facts and  
 2 history.

3       6.      Makhijani continued to say that Hillel is “run and funded by wealthy Zionists who  
 4 promote their own agenda” and who only welcome students who “follow Hillel’s views and  
 5 propaganda.” As a Hillel intern who knew how false this statement was, Ms. Gershon felt targeted  
 6 and intimidated by her professor, who was in a position of power over Ms. Gershon’s grades, had  
 7 stature and authority in the classroom, and impacted her relationships on campus. At the same time,  
 8 Makhijani was herself promoting an anti-Semitic propaganda narrative relating to Jews and Zionists,  
 9 while justifying the targeting of innocent Jewish and Israeli SFSU students like Ms. Gershon as  
 10 “understandable” because the Jews are “powerful.”

11       7.      Makhijani told Ms. Gershon that she “needed to take a history class” and, despite the  
 12 fact that Ms. Gershon told Makhijani that she was currently enrolled in a history course called “The  
 13 Arab-Israeli Conflict,” Makhijani told Ms. Gershon to take her own “Intro to Ethnic Studies” course  
 14 the following semester. Ms. Gershon did not know how to respond to her professor, but she had no  
 15 intention of taking another course where she would be belittled about her own understanding of her  
 16 identity and subjected to racist and anti-Semitic tropes. It was clear to Ms. Gershon that Makhijani  
 17 only welcomed Jews who actively oppose Jewish self-determination.

18       8.      Ms. Gershon told Makhijani repeatedly that she did not want to have these  
 19 conversations in front of her peers, who regularly made comments about the odd way that Makhijani  
 20 was “calling her out” in class. However, Makhijani continued to target and harass Ms. Gershon  
 21 inside and out of class, telling Ms. Gershon that her own experience and understanding was framed  
 22 by “rich and powerful Zionists” and that there were “other Ethnic Studies professors who have done  
 23 a lot of work and research into the rich and powerful oppressive Zionists.” It became obvious to Ms.  
 24 Gershon that the COES faculty perpetuates a consistent narrative that denies the humanity, civil  
 25 rights and right to self-determination of Ms. Gershon and other members of her Jewish and Israeli  
 26 communities—and maligns members of those communities who believe in their own inalienable  
 27 rights.

1       9. Over the course of the semester, Ms. Gershon became increasingly uncomfortable,  
 2 upset, and nervous, feeling so targeted and vulnerable in class that she dreaded going. Although she  
 3 feared that her commitment to standing up for her identity and community would harm her grade,  
 4 Ms. Gershon knew that participation was factored into her final grade so she had no choice but to  
 5 continue showing up and subjecting herself to this harassment.

6       10. The final assignment for the course was very similar to the assignment on *Migritude*,  
 7 asking the students to again describe their own families' background and struggles. The assignment  
 8 included a clip-art image of Rasmea Odeh, a convicted Palestinian terrorist who carried out two  
 9 bombing attacks in Jerusalem which killed innocent Jewish and Israeli civilians. After Makhijani had  
 10 spent weeks targeting Ms. Gershon as an Israeli and a Jew, it felt particularly challenging and  
 11 alienating for Ms. Gershon to be forced to describe her family's story in the context of this terrorist  
 12 without describing the specific struggles and experiences that Ms. Gershon had already explained—  
 13 and which Makhijani told her repeatedly were “wrong.”

14      11. This ongoing issue has been documented in an official EO 1097 report to SFSU and  
 15 CSU on May 22, 2018. The same day, Ms. Gershon received an email from Sara Lewis—on behalf  
 16 of Katon Dalton, the Senior Deputy Title IX Coordinator and DHR Administrator at SFSU (who, on  
 17 information and belief, conducted the internal KYRF investigation)—requesting a meeting in the  
 18 following days. Ms. Gershon has taken steps to arrange this meeting, however, to date, no meeting  
 19 has taken place.

20      12. Although Ms. Gershon is deeply committed to social justice and has always wanted to  
 21 study these very issues, she is afraid to take any other classes in COES—whether related to the  
 22 Israeli-Palestinian conflict or not—because she realizes she will face the same intimidation,  
 23 discrimination and harassment from the faculty simply because she has not hidden her identity or  
 24 abandoned her beliefs and conformed to theirs. Ms. Gershon has not registered for any more classes  
 25 under the COES curriculum, and does not intend to register for any such classes in the future.  
 26 SFSU’s overall pervasively hostile climate for Jews and Israelis is particularly acute within COES,  
 27 where students like Ms. Gershon are targeted both personally and academically.

1 Dated: June 13, 2018

Respectfully submitted,

2 WINSTON & STRAWN LLP

3 By: /s/ Seth Weisburst

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